

REMARKS

Claims 2-4, 6, 8-9, 13-15, 17, 19 and 23 are pending in the present application. Claims 2-4, 6, 8-9, 13-15, 17 and 19 are the subject of the previous Office Action. Claims 8, 9, 17 and 19 are in independent form.

A response was filed on October 31, 2008, amending claims 8, 9 and 17 to accept the allowable subject matter and cancelling the finally rejected claims. Claim 19 was indicated as being allowable without requiring amendments thereto. Upon further review, the Examiner has withdrawn the indication of allowability and has issued a fifth Office Action.

Independent claims 8, 9 and 17 are being amended to clarify that the clamp body has a protrusion for clamping the frame securable end *between the protrusion and the drain body*. New claim 23 is being added to also claim this feature in dependent form depending from independent claim 19.

Support for these amendments is provided in Figure 2 and paragraph [0023] of the specification as originally filed.

No new matter has been added.

Response to Rejections

Claims 2-4, 6, 8, 9, and 19 are rejected under 35 U.S.C. §102(b) as being anticipated by the previously cited United States Patent No. 6,269,495 to Sondrup (hereinafter "Sondrup"). Claims 17 and 13-15 are rejected under 35 U.S.C. §103(a) as being obvious over Sondrup.

The Office Action asserts that Sondrup teaches each and every feature of the claims including a drain body (18, 20) defining a drain cavity (22); a frame (14 and se) having a securable end (se) received by the drain body and an exposed end (ee) wherein the frame is rotatable relative to the drawing body for adjusting the position of the frame exposed end; a clamp (16, 24) for fixing the securable end of the frame to the drain body; and a grate (12) received by the exposed end of the frame, wherein the drain body comprises a ledge (18a) having a sloped surface and the frame securable end slidably engages the surface of the sloped surface of the ledge when the frame is rotated relative to the drain body.

With respect to the previously indicated allowable features of a protrusion for clamping the frame securable end to the drain body and a fastener extending beyond the frame securable end and the clamp body and being threaded in the drain body, the Examiner provides an annotated Figure 1 of the Sondrup patent. In this annotated Figure, a “protrusion p” is labeled at the end of plate 24. It is the Examiner’s position that this “protrusion p” corresponds with the protrusion of the clamp body of the present invention. The Examiner also asserts that the clamp comprises a fastener (16) extending in a radial direction beyond the frame securable end and the clamp body and being threaded into the drain body.

Applicant respectfully traverses this rejection for the following reasons.

Sondrup teaches a completely different drain design than the present invention. The Office Action refers to the “drain body” of Sondrup as being shown by components (18, 20); however, the Sondrup actually refers to component (18) as being a first plate. The “frame (14)” referred to in the Office Action is actually a funnel member or connector channel in the reference. The securable end (se), shown in the Office Action, is not a portion of the “frame (14)”, but rather the rounded ring pivot member referred to as (26) in Sondrup. The “clamp (16, 24)” referred to in the Office Action is actually referred to as a securing bolt (16) and a second plate (24) in the reference. The “drain body comprises a ledge (18a)” of the Office Action is actually referred to in Sondrup as the lower spherical surface (18a) of the first plate (18) which slidingly engages the rounded ring or pivot member (26), not the “frame (14)” as stated by the Examiner. Furthermore, this “ledge (18a)” is not sloped as specifically recited in the claims, i.e., it does not meet the generally known definition of slope which is to slant or incline away from a relatively straight surface or line used as a reference, but rather forms a circular surface. Accordingly, Sondrup fails to teach the specific components of the drain as set forth in the claims.

With respect to the “protrusion p” in Sondrup, this “protrusion p” does not clamp a frame securable end such that the frame securable end is clamped **between** the protrusion and the drain body. Independent claims 8 and 9 have been amended to clearly define this feature in the present application. As such, Sondrup fails to anticipate claims 2-4, 6, 8 and 9.

With respect to independent claim 19, the Examiner asserts that Sondrup anticipates this claim. In particular, the Examiner asserts that Sondrup teaches a frame having a securable end received by the drain body and an exposed end wherein the frame is rotatable relative to the drain body for adjusting the position of the frame exposed end and a clamp for fixing the securable end of the frame to the drain body and a grate received by the exposed end of the frame wherein the clamp comprises a clamp body having a protrusion for clamping the frame securable end to the drain body and where the clamp body comprises a sloped drain body engaging surface to provide a gap between a portion of the drain body engaging surface and the drain body.

Applicant respectfully traverses this rejection.

The Office Action is unclear as to how the Sondrup patent anticipates this claim. In particular, it is unclear where the Sondrup patent teaches the claimed feature of a sloped drain body engaging surface to provide a gap between a portion of the drain body engaging surface and the drain body. The Examiner is requested to provide clarification of this rejection.

As discussed in detail above, the Sondrup drain has a completely different design, completely different components and is installed in a completely different manner than the drain of the present invention. Sondrup fails to teach any “equivalent” surfaces with the claimed invention and as a result fails to teach that such surfaces are “sloped”.

New claim 23 further clarifies that the protrusion of the clamp body is configured for clamping the frame securable end between the protrusion and the drain body. This feature is not shown in Sondrup.

For the reasons set forth above, it is respectfully requested that the rejection of claims 2-4, 6, 8, 9, and 19 under 35 U.S.C. §102(b) be withdrawn as Sondrup fails to teach each and every feature of these claims.

Claims 17 and 13-15 are rejected under 35 U.S.C. §103(a) as being unpatentable over Sondrup. With respect to claim 17, the Office Action merely states that claim 17 is an obvious method of using the drain of Sondrup wherein Sondrup discloses the clamping step as comprising extending a fastener through the clamp body and beyond, in an axial direction the securable end of the frame and threading the fastener into the drain body. As noted above, Sondrup fails to teach the claimed drain; therefore, Sondrup also fails to teach an “obvious”

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method of using/installing the drain as specifically recited in this claim. Further, claim 17 has now been amended to further clarify that the securing step comprises clamping the securable end of the frame between a protrusion of a clamp body and the drain body. Sondrup fails to anticipate and/or render obvious this feature.

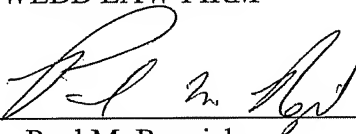
Accordingly, for the reasons set forth above, it is respectfully requested that the rejection of claims 17 and 13-15 under 35 U.S.C. §103(a) be withdrawn as Sondrup fails to render these claims obvious.

CONCLUSION

Based on the foregoing remarks and amendments, reconsideration of the rejections of claims 2-4, 6, 8-9, 13-15, 17 and 19 and allowance of all claims remaining in the application, 2-4, 6, 8-9, 13-15, 17, 19 and 23 are respectfully requested.

Respectfully submitted,

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